

Internal Revenue Service

Department of the Treasury

District
Director

1100 Commerce St., Dallas, Texas 75242

Date:

JAN 3 1997

Employer ID Number:

Person to Contact:

Telephone Number:

Refer Reply To:

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(6) of the Internal Revenue Code.

The information submitted indicates you are an unincorporated [REDACTED]; you certify that the Articles of Incorporation submitted with the application for tax exemption is a true, correct, and complete copy of the original as approved by the members on [REDACTED].

The activities described in Part II of the application, include:

"[REDACTED] was established to assist its members in preparing obstetrical and neonatal medical negligence cases."

"Certain literature that may be helpful in this preparation is shared by all active members. Educational programs are also provided to all active members and are held in conjunction with the [REDACTED] annual meetings."

"[REDACTED] maintains a database of experts which may be helpful in the preparation of a case."

Article Three of the Articles of Association states:

"The type of professional service to be performed is litigation support for the purposes of assisting plaintiffs' counsel in their efforts to prepare fairly and adequately their clients' cases for trial, to verify the accuracy of the defendants' responses to legitimate discovery requests and, thereby, to reduce the expenses incurred when an injured person exercises his or her rights to seek legal redress."

Before formally organizing as a [REDACTED], the [REDACTED] was a section of the [REDACTED] a tax-exempt corporation described in section 501(c)(6) of the Internal Revenue Code.

Membership in the [REDACTED] is a requirement for membership in the [REDACTED]. You continue to use the Bylaws of the [REDACTED] and their [REDACTED] in your current operations.

The purposes presented in Article I of the Bylaws resemble those stated in Article Three of the Articles of Association. The activities described in Article II of the Bylaws indicate the [REDACTED]

"...provide its members with litigation support for the purposes of assisting plaintiff's counsel...to verify the accuracy of the defendant's responses...to reduce the expenses incurred when an injured person exercises his or her rights to seek legal redress."

"...make available to all members in the group documents, depositions, briefs and other materials...develop educational programs...develop packages of materials, memoranda, articles, bibliographies, and other resources on birth trauma litigation and medical negligence topics."

"...produce articles, studies, and statements...disseminate information regarding new developments...through appropriate mailings or newsletters."

"...work with the [REDACTED] to augment the data base available to all [REDACTED] members, or may work with other [REDACTED] groups or committees, or any other entities, to further the interests of its members."

The Membership Requirements of Article III of the Bylaws indicate each member of the [REDACTED] must agree that he/she:

"Is a Regular, Sustaining or Life member in good standing with [REDACTED]"

"Is a member in good standing of the bar of one or more jurisdictions."

"Is engaged in the representation of plaintiffs in birth trauma litigation cases, and is not representing, and will not represent any insurance company, hospital or physician in any medical negligence case, excluding the representation as personal counsel of a physician in a case which involves potential liability in excess of the physician's insurance coverage."

"Will fully and candidly share relevant information, documents and other material with other members of the group."

"Will resist the defense's requests for secrecy orders which prohibit information sharing and restrict access to information needed by the victims of similar trauma litigation."

"Will not disclose any information provided by or obtained through the [REDACTED]"

"Each member of the group agrees that the information, documents or

materials obtained from the [REDACTED] its members, or the [REDACTED] will not be sold or distributed for profit by the member under any circumstances."

"Each member agrees to pay dues,..."

The Application for Membership requests the applicant to enclose a check in the amount of \$[REDACTED], made payable to [REDACTED].

Section 501(c) of the Code describes certain organizations exempt from Federal income tax under section 501(a) and reads, in part, as follows:

"(6) Business leagues, chambers of commerce, real estate boards, boards of trade, ***, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual."

Section 1.501(c)(6)-1 of the regulations provides as follows:

"A business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in regular business of a kind ordinarily carried on for profit. It is an organization of the same general class as a chamber of commerce or board of trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons. An organization whose purpose is to engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self-sustaining, is not a business league. ***"

In your letter of September 19, 1996, you state, in part: "As emphasized in Oregon Casualty Association v. Commissioner, 37 BTA 340 (1938), another factor in favor of [REDACTED] exempt status is that there is a clear public interest in victims having access to our court system. This case cites a Court of Appeals case where the court stated that organizations are evidently granted exemption because of benefit to be derived by the public from their activities."

Oregon Casualty Association v. Commissioner, supra, involved an association, formed by several insurance companies after they were ordered by their state insurance commissioner to check compliance with the rate schedule fixed by law. While the association achieved this end by operating an information exchange, its purpose was to police its members; it was not designed to assist in the underwriting process. The organization improved business conditions rather than providing a service for its members.

Likewise, Revenue Ruling 67-394, 1967-2 C.B. 201, is similarly distinguishable. That ruling involved an association of small loan companies formed in response to a state banking regulation. The association operated an information exchange which shared data concerning the number of small loans already held by each loan applicant. However, these facts are distinguishable on the basis that the regulation and exchange were designed to protect the borrowers from overextending themselves, and not for the benefit of the lenders.

Revenue Ruling 56-65, 1956-1 C.B. 199, held: An organization whose principal

activity consists of furnishing particular information and specialized individual service to its individual members engaged in a particular industry, through publications and other means to effect economies in the operation of their individual businesses is performing particular services for individual persons. Such organization, therefore, is not entitled to exemption from Federal income tax under section 501(c)(6) of the Internal Revenue Code even though it performs functions which are of benefit to the particular industry and the public generally.

Revenue Ruling 67-176, 1967-1 C.B. 140, states: An organization formed to provide specific services to members of a given profession and to those preparing to enter the profession on matters relating to their practices does not qualify for exemption from Federal income tax under section 501(c)(6) of the Internal Revenue Code.

Revenue Ruling 67-182, 1967-1 C.B. 141, held: An organization whose only activity is providing a reference library of "electric logs", maps, and information services used solely by its members in their oil exploration businesses is not exempt from Federal income tax as an organization described in section 501(c)(6) of the Internal Revenue Code.

The organization makes specialized information available to its members on a cooperative basis. This serves as a convenience and economy in the conduct of their businesses. Operation of the library described is an activity which constitutes the performance of particular services for individual persons. Furthermore, since membership is limited and the facilities of the organization are made available only to participating members, the organization's activities are not aimed at the improvement of business conditions in the industry as a whole.

Revenue Ruling 68-264, 1968-1 C.B. 264, held that activities that constitute the performance of particular services for individual persons may preclude exemption from Federal income tax under section 501(c)(6) of the Code. It further defines a particular service for the purposes of section 501(c)(6) of the Code as an activity that serves as a convenience or an economy to the members of the organization in the operation of their own businesses.

Revenue Ruling 69-106, 1969-1 C.B. 153 held: A nonprofit manufacturers' organization that conducts research in projects of common interest to their industry and makes the results available only to its members rather than to the industry as a whole does not qualify for exemption under section 501(c)(6) of the Internal Revenue Code.

The organization was formed and is operated by a group of manufacturers to carry on research and development in projects of common interest to their industry. A committee of the membership agrees on what projects will be undertaken. No research is conducted for any particular member. All research projects are financed solely by the dues of the members. The results of the research are made available only to members.

Based on the information provided we have determined that you do not satisfy the requirements for exemption from Federal income tax described in section 501(c)(6) of the Internal Revenue Code. You are performing particular services for your members by assisting them in the preparation of obstetrical

and neonatal medical negligence cases for their clients. You maintain a member-limited database of information and experts which may be helpful in the preparation of a case for trial. You are like the organizations described in Revenue Rulings 56-65, 67-176, and 67-182 above, which are performing services for their members, and which were determined to be exempt. In addition, you are like the organizations described in Revenue Rulings 68-264 and 69-106. By performing particular services for your members you are providing them a convenience or an economy in the operation of their individual business, and, like these organizations, you also do not qualify for tax exemption under section 501(c)(6).

You are not like the organizations described in Oregon Casualty Association v. Commissioner, supra, or in Revenue Ruling 67-394. Those organizations qualified for exemption under Code section 501(c)(6) because they were formed in response to State insurance and banking regulatory authorities to serve and protect the interests of the general public.

Accordingly, it is held that you are not entitled to exemption from Federal income tax as an organization described in section 501(c)(6) of the Internal Revenue Code and are required to file Federal income tax returns on Form 1120.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

If you have any further questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely,



Bobby E. Scott
District Director

Enclosures:
Publication 892
Form 6018

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Department of the Treasury Internal Revenue Service
Consent to Proposed Adverse Action
(All references are to the Internal Revenue Code)

Prepare in
Duplicate

Case Number

Date of Latest Determination Letter

Employer Identification Number

Date of Proposed Adverse Action Letter

Name and Address of Organization

I consent to the proposed adverse action relative to the above organization as shown by the box(es) checked below. I understand that if Section 7428, Declaratory Judgments Relating to Status and Classification of Organizations under Section 501(c)(3), etc. applies, I have the right to protest the proposed adverse action.

NATURE OF ADVERSE ACTION

- ☒ Denial of exemption 501(c)(6)
- ☐ Revocation of exemption, effective _____
- ☐ Modification of exempt status from section 501(c)() to 501(c)(), effective _____
- ☐ Classification as a private foundation (section 509(a)), effective _____
- ☐ Classification as a non-operating foundation (section 4942(j)(3)), effective _____
- ☐ Classification as an organization described in section 509(a)(), effective _____
- ☐ Classification as an organization described in section 170(b)(1)(A)(), effective _____

If you agree to the adverse action shown above, please sign and return this consent. You should keep a copy for your records.

If you sign this consent before you have exhausted your administrative appeal rights, you may lose your rights to a declaratory judgment under section 7428.

(Signature instructions are on the back of this form.)

Name of Organization

Signature and Title

Date

Signature and Title

Date